

AMENDED IN SENATE AUGUST 23, 2007

AMENDED IN SENATE JULY 9, 2007

AMENDED IN SENATE JULY 2, 2007

AMENDED IN SENATE JUNE 14, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1749**

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**Introduced by Assembly Member Dymally**

March 22, 2007

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An act to add Section 12712 to the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1749, as amended, Dymally. ~~Acute care Health facilities: temporary manager.~~ *private nonprofit university medical education project.*

*(1) The California Educational Facilities Authority Act establishes the California Educational Facilities Authority, the purpose of which is to provide private institutions of higher education within the state an additional means by which to expand, enlarge, and establish dormitory, academic, faculty, and staff housing, and related facilities, finance those facilities, refinance existing facilities, and to provide private and public institutions of higher education within the state an additional means to assist students in financing their costs of attendance. A provision of the act that became effective on September 29, 2006, requires an applicant for financing to provide documentation, before the authority approves the issuance of bonds for the project for which financing is sought, that*

*the project is either in compliance with the California Environmental Quality Act or is not within the scope of that act.*

*This bill would instead require that, until January 1, 2008, the provision described above would not apply to a private nonprofit university medical education project consisting of a single building if the State Treasurer determines that the university received from an underwriting firm a draft engagement agreement that was dated September 25, 2006, for purposes that included the issuance of bonds by the California Educational Facilities Authority for that project based on the requirements of that provision as it read from January 1, 1987, to September 28, 2006, inclusive.*

*(2) This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law provides for the licensure and regulation of health facilities, including general acute care hospitals and long-term health care facilities, by the State Department of Public Health.~~

~~Existing law prohibits the operation, establishment, management, conduct, or maintenance of a health facility without having first obtained a license, or the continued operation, conduct, or maintenance of an existing health facility without having obtained a license. Existing law also authorizes the court to appoint a receiver to temporarily operate an existing long-term health care facility under certain conditions. Existing law also authorizes the department to appoint a temporary manager to operate a long-term care facility under certain conditions.~~

~~This bill would authorize the department to appoint a temporary manager to operate a general acute care hospital in an underserved community under certain conditions.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) Notwithstanding any other provision of law,
- 2     the amendments enacted by Chapter 714 of the Statutes of 2006
- 3     (Assembly Bill No. 1341 of the 2005-06 Regular Session) to
- 4     subdivision (b) of Section 94212 of the Education Code shall not
- 5     apply to a private nonprofit university medical education project
- 6     consisting of a single building if the State Treasurer determines

1 *that the university received from an underwriting firm a draft*  
2 *engagement agreement that was dated September 25, 2006, for*  
3 *purposes that included the issuance of bonds by the California*  
4 *Educational Facilities Authority for that project based on the*  
5 *requirements of that subdivision as that subdivision read from*  
6 *January 1, 1987, to September 28, 2006, inclusive.*

7 *(b) This section shall remain in effect only until January 1, 2008,*  
8 *and as of that date is repealed, unless a later enacted statute, that*  
9 *is enacted before January 1, 2008, deletes or extends that date.*

10 *SEC. 2. This act is an urgency statute necessary for the*  
11 *immediate preservation of the public peace, health, or safety within*  
12 *the meaning of Article IV of the Constitution and shall go into*  
13 *immediate effect. The facts constituting the necessity are:*

14 *In order that a medical education project may be financed to*  
15 *provide necessary health care in a timely fashion in an underserved*  
16 *community, it is necessary for this act to go into effect immediately.*

17 ~~SECTION 1. Section 12712 is added to the Health and Safety~~  
18 ~~Code, to read:~~

19 ~~12712. (a) It is the intent of the Legislature in enacting this~~  
20 ~~section to empower the State Department of Public Health to take~~  
21 ~~quick, effective action to protect the health and safety of general~~  
22 ~~acute care hospital patients in significantly underserved~~  
23 ~~communities and to minimize the effects of a closure or major~~  
24 ~~downsizing of critical health services.~~

25 ~~(b) For purposes of this section, "temporary manager" means~~  
26 ~~the person, corporation, or other entity, appointed temporarily by~~  
27 ~~the State Department of Public Health as a substitute facility~~  
28 ~~manager or administrator with authority to hire, terminate, or~~  
29 ~~reassign staff, obligate facility funds, alter facility procedures, and~~  
30 ~~manage the facility to correct deficiencies identified in the facility's~~  
31 ~~operation.~~

32 ~~(c) The director may appoint a temporary manager when the~~  
33 ~~patients of a general acute care hospital in an underserved~~  
34 ~~community are in immediate danger of death or permanent injury~~  
35 ~~by virtue of the failure of the facility to comply with federal or~~  
36 ~~state requirements applicable to the operation of the facility.~~

37 ~~(d) Upon appointment, the temporary manager shall take all~~  
38 ~~necessary steps and make best efforts to eliminate immediate~~  
39 ~~danger of death or permanent injury to patients or complete transfer~~  
40 ~~of patients to alternative placements.~~

1     ~~(e) (1) The appointment of a temporary manager shall become~~  
2     ~~effective immediately and shall continue until any of the following~~  
3     ~~events occur:~~

4     ~~(A) The temporary manager notifies the department, and the~~  
5     ~~department verifies, that the facility meets state and, if applicable,~~  
6     ~~federal standards for operation, and will be able to continue to~~  
7     ~~maintain compliance with those standards after the termination of~~  
8     ~~temporary management.~~

9     ~~(B) The department approves a new management company.~~

10    ~~(C) A new operator is licensed.~~

11    ~~(D) The department closes the facility, through an orderly~~  
12    ~~transfer of the patients.~~

13    ~~(E) A hearing or court order ends the temporary manager~~  
14    ~~appointment.~~

15    ~~(F) The appointment is terminated by the department or the~~  
16    ~~temporary manager.~~

17    ~~(2) The appointment of a temporary manager shall authorize~~  
18    ~~the temporary manager to act pursuant to this section. The~~  
19    ~~appointment shall be made pursuant to an agreement between the~~  
20    ~~temporary manager and the department that outlines the~~  
21    ~~circumstances under which the temporary manager may expend~~  
22    ~~funds. The temporary manager shall make no long-term capital~~  
23    ~~investments in the facility without the permission of the~~  
24    ~~department. The department shall provide the licensee and~~  
25    ~~administrator with a statement of allegations at the time of~~  
26    ~~appointment. Within 48 hours, the department shall provide the~~  
27    ~~licensee and the administrator with a formal statement of cause~~  
28    ~~and concerns. The statement of cause and concerns shall specify~~  
29    ~~the factual and legal basis for the imposition of the temporary~~  
30    ~~manager and shall be supported by the declaration of the director~~  
31    ~~or the director's authorized designee. The statement of cause and~~  
32    ~~concerns shall notify the licensee of his or her right to petition the~~  
33    ~~Office of Administrative Hearings for a hearing to contest the~~  
34    ~~appointment of the temporary manager and shall provide the~~  
35    ~~licensee with a form and appropriate information for the licensee's~~  
36    ~~use in requesting a hearing.~~

37    ~~(f) The temporary manager appointed pursuant to this section~~  
38    ~~shall meet the following qualifications:~~

39    ~~(1) Be qualified to oversee correction of deficiencies on the~~  
40    ~~basis of experience and education.~~

1     ~~(2) Not have been found guilty of misconduct by any licensing~~  
2     ~~board.~~

3     ~~(3) Have no financial ownership interest in the facility and have~~  
4     ~~no member of his or her immediate family who has a financial~~  
5     ~~ownership interest in the facility.~~

6     ~~(4) Not currently serve, or within the past two years have served,~~  
7     ~~as a member of the staff of the facility.~~

8     ~~(5) Be acceptable to the facility.~~

9     ~~(g) Payment of the temporary manager's salary or fee shall~~  
10    ~~comply with the following requirements:~~

11    ~~(1) Shall be paid directly by the facility while the temporary~~  
12    ~~manager is assigned to that facility.~~

13    ~~(2) Shall be equivalent to the sum of the following:~~

14    ~~(A) The prevailing salary or fee paid by licensees for positions~~  
15    ~~of the same type in the facility's geographic area.~~

16    ~~(B) Additional costs that reasonably would have been incurred~~  
17    ~~by the licensee if the licensee had been in an employment~~  
18    ~~relationship.~~

19    ~~(C) Any other reasonable costs incurred by the appointed~~  
20    ~~temporary manager in furnishing services pursuant to this section.~~

21    ~~(3) May exceed the amount specified in paragraph (2) if the~~  
22    ~~department is otherwise unable to attract a qualified temporary~~  
23    ~~manager.~~

24    ~~SEC. 2. This act is an urgency statute necessary for the~~  
25    ~~immediate preservation of the public peace, health, or safety within~~  
26    ~~the meaning of Article IV of the Constitution and shall go into~~  
27    ~~immediate effect. The facts constituting the necessity are:~~

28    ~~In order to prevent the closure of an acute care facility that~~  
29    ~~provides necessary and urgently needed medical care to an~~  
30    ~~underserved community, it is necessary for this act to go into effect~~  
31    ~~immediately.~~